THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4860 of 1998

ORAL ORDER:

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This writ petition is filed questioning the award passed by the Labour Court-III, Hyderabad in I.D.No.490 of 1992 dated 30.6.1995 insofar as denying back wages to the petitioner.

It appears, petitioner while working as Conductor, as a disciplinary measure, was removed from service with effect from 8.6.1990 and the appeal filed against the said order was rejected on 19.11.1990. Questioning the same, petitioner raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 before the Labour Court-III, Hyderabad. The Labour Court after a detailed consideration of the evidence placed before it, came to the conclusion that in the peculiar facts and circumstances of the case, removal from service is disproportionate to that of the misconduct alleged against the petitioner, therefore, set aside the order of removal and directed the management to reinstate the petitioner into service with continuity of service, but without any back wages and without attendant benefits. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner strenuously contended that the Labour Court having set aside the order of removal and directed the Management to reinstate the petitioner into service, no reasons have been furnished for denying attendant benefits and back wages. The Labour Court ought to have given detailed reasons for denying back wages while considering the case of the petitioner under Section 11-A of the I.D. Act.

The Labour Court has in fact considered each and every aspect of the matter holding that the amount involved in the case was only a sum of Rs.3.50 ps. and the delay in collecting fare and issuing tickets would only reflect negligence on the part of the Conductor and no mala fide intention can be attributed to the petitioner either to cause loss to the Corporation or to misappropriate the amount. Therefore, the Labour Court while exercising power under Section 11-A of the I.D. Act, on a pragmatic approach, awarded

reinstatement of the petitioner with continuity of service, but without any back wages and without attendant benefits. I am of the opinion that the reasons furnished would indicate that the Labour Court has rightly exercised its power under Section 11-A of the I.D. Act for the purpose of denying back wages. However, I am of the opinion that the Labour Court having held that punishment awarded is disproportionate to that of the misconduct alleged, ought to have granted attendant benefits for the purpose of terminal benefits.

Under those circumstances, the award passed by the Labour Court dated 30.6.1995 is modified to the extent of directing the respondents to reinstate the workman into service with continuity of service and attendant benefits notionally for the purpose of terminal benefits, but without any back wages.

The writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 28.3.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4860 of 1998

28.3.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4860 of 1998

Date: 28th March, 2007

Between:

S.N.Chari

.. Petitioner

And

Labour Court-III, Hyderabad,
represented by Presiding Officer,
Chandravihar Complex, Nampally,

Hyderabad & another.

.. Respondents